

## **401 KAR 30:005. Definitions for 401 KAR Chapter 30.**

RELATES TO: KRS Subchapters 224.01, 224.10, 224.40, 224.43, 224.46, 224.50, 224.60, 224.99, 40 C.F.R. 260.10

STATUTORY AUTHORITY: KRS 224.10-100, 40 C.F.R. 260.10

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 and the waste management provisions of KRS Chapter 224 require the cabinet to promulgate administrative regulations for the management of solid, special, and hazardous wastes. This administrative regulation defines essential terms, acronyms, and abbreviations used in connection with 401 KAR Chapter 30. Some federal terms have been modified to conform to Kentucky statutory mandates. Definitions contained in KRS Chapter 224 have been referenced to the appropriate statutory citation. Some terms do not have a federal counterpart and have been added to clarify requirements and provisions of KRS Chapter 224 and 401 KAR Chapter 30.

Section 1. Definitions. Except as provided in this section, the definitions established in 40 C.F.R. 260.10, effective September 9, 2005, shall apply.

(1) "100-year flood" means a flood that has a one (1) percent chance of being equaled or exceeded in any given year.

(2) "Administrator", "agency", "assistant administrator", "regional administrator", "director", or "regional director" means cabinet as defined in KRS 224.01-010(9).

(3) "Cabinet" is defined by KRS 224.01-010(9).

(4) "Coal mining by-products" means any material that:

(a) Is not one (1) of the primary products of a particular coal mining operation;

(b) Is a secondary and incidental product of the particular operation;

(c) Would not be solely and separately mined by the particular operation;

(d) Does not include an intermediate mining product, which results from one (1) of the steps in a mining process and is processed through the next step of the process within a short time; and

(e) May be stored separately in the hope that it can be profitably treated later, such as ore deposit that is too low in grade to be of economic value at the time of mining.

(5) "Coal mining waste" means earth materials which:

(a) Are combustible, physically unstable, acid-forming or toxic-forming;

(b) Are generated during and incidental to the mining and extraction of coal and to the washing and crushing of coal;

(c) Does not include used oil, paints, or flammable liquids; and

(d) Shall include refuse, overburden, and coal mining by-products.

(6) "Contaminate" means the introduction of a substance that would cause:

(a) The concentration of that substance in the groundwater to exceed the maximum contaminant level specified in 401 KAR 30:031, 401 KAR 47:030, Sections 5 and 6, or 401 KAR 34:060, Section 5;

(b) An increase in the concentration of that substance in the groundwater where the existing concentration of that substance exceeds the maximum contaminant level specified in 401 KAR 30:031, 401 KAR 47:030, or 401 KAR 34:060, Section 5; or

(c) A significant increase above established background levels, for substances that do not have an established maximum contamination level.

(7) "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

(8) "Destruction or adverse modification" means an alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

- (9) "Disposal" is defined by KRS 224.01-010(10).
- (10) "Endangered or threatened species" means any species listed as endangered or threatened pursuant to Section 4 of the Endangered Species Act, as amended, 16 U.S.C. 1533.
- (11) "Environmental Protection Agency" or "EPA" means the Kentucky Department for Environmental Protection except if used in the phrases "EPA hazardous waste number", "EPA identification number", "EPA Region", "EPA Acknowledgment of Consent", "EPA Test Methods", or "EPA publications".
- (12) "Equivalent method" means any testing or analytical method authorized under 401 KAR Chapter 31, or methods in 401 KAR Chapters 47 and 48.
- (13) "Federal Register" means the Administrative Register of Kentucky as described in KRS 13A.050.
- (14) "Generator" is defined by KRS 224.01-010(13).
- (15) "Hazardous waste" is defined by KRS 224.01-010(31)(b).
- (16) "Karst terrain" means a type of topography where limestone, dolomite or gypsum is present and is characterized by naturally occurring closed topographic depressions or sinkholes, caves, disrupted surface drainage, and well developed underground solution channels formed by dissolution of these rocks by water moving underground.
- (17) "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases, which will propagate a flame in air at twenty-five (25) degrees Celsius and atmospheric pressure.
- (18) "Manifest" is defined by KRS 224.01-010(37).
- (19) "Overburden" means:
  - (a) All of the earth and other geologic materials, excluding topsoil, which lie above a natural deposit of coal; and
  - (b) The earth and other material after removal from their natural state in the process of mining.
- (20) "Permit" means the authorization or other control document that:
  - (a) Is issued by the cabinet to implement the requirements of the waste management administrative regulations;
  - (b) Includes permit-by-rule, registered permit-by-rule, research, development, and demonstration permit, and emergency permit; and
  - (c) Does not include draft permit or proposed permit.
- (21) "Person" is defined by KRS 224.01-010(17).
- (22) "Publicly owned treatment works" is defined by KRS 224.01-010(19).
- (23) "RCRA" means the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq).
- (24) "Recycling" is defined by KRS 224.01-010(22).
- (25) "Refuse" means waste material in the raw coal which it is the object of cleaning to remove.
- (26) "Solid waste" is defined in KRS 224.01-010(31)(a).
- (27) "State" means the Commonwealth of Kentucky.
- (28) "Storage" is defined by KRS 224.01-010(28).
- (29) "Termination" is defined by KRS 224.01-010(26).
- (30) "Transfer facility" is defined by KRS 224.01-010(48).
- (31) "Transportation" is defined by KRS 224.01-010(29).
- (32) "Treatment" is defined by KRS 224.01-010(30).
- (33) "United States" means the Commonwealth of Kentucky.
- (34) "Used oil" is defined by KRS 224.50-545(2)(a).
- (35) "Washout" means the carrying away of waste by waters as a result of flooding.
- (36) "Waste" is defined by KRS 224.01-010(31).
- (37) "Water" or "Waters of the Commonwealth" is defined by KRS 224.01-010(33).
- (38) "Wetlands" means land that has a predominance of hydric soils and is inundated or satu-

rated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

Section 2. Substitution of Federal References. (1) The following federal parts and subparts, which are cited by federal regulations referenced in 401 KAR Chapter 30, shall be substituted with the state administrative regulations listed below.

| Federal Regulation      | State Regulation                                                                                                                                                                                   |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 40 C.F.R. Part 260      | 401 KAR Chapter 30                                                                                                                                                                                 |
| 40 C.F.R. 260 Subpart A | 401 KAR 30:020                                                                                                                                                                                     |
| 40 C.F.R. 260 Subpart B | 401 KAR 30:005, 401 KAR 31:005, 401 KAR 32:005, 401 KAR 33:005, 401 KAR 34:005, 401 KAR 35:005, 401 KAR 36:005, 401 KAR 37:005, 401 KAR 38:005, 401 KAR 43:005, 401 KAR 44:005, and 401 KAR 30:020 |
| 40 C.F.R. 260 Subpart C | 401 KAR 30:035                                                                                                                                                                                     |
| 40 C.F.R. Part 261      | 401 KAR Chapter 31                                                                                                                                                                                 |
| 40 C.F.R. 261 Subpart A | 401 KAR 31:010                                                                                                                                                                                     |
| 40 C.F.R. 261 Subpart B | 401 KAR 31:020                                                                                                                                                                                     |
| 40 C.F.R. 261 Subpart C | 401 KAR 31:030                                                                                                                                                                                     |
| 40 C.F.R. 261 Subpart D | 401 KAR 31:040                                                                                                                                                                                     |
| 40 C.F.R. Part 262      | 401 KAR Chapter 32                                                                                                                                                                                 |
| 40 C.F.R. 262 Subpart A | 401 KAR 32:010                                                                                                                                                                                     |
| 40 C.F.R. 262 Subpart B | 401 KAR 32:020                                                                                                                                                                                     |
| 40 C.F.R. 262 Subpart C | 401 KAR 32:030                                                                                                                                                                                     |
| 40 C.F.R. 262 Subpart D | 401 KAR 32:040                                                                                                                                                                                     |
| 40 C.F.R. 262           | 401 KAR 32:050, Sec-                                                                                                                                                                               |

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|-------------------------|------------------------------------------------------------------------------------------------|
| Subpart E               | tions 1-9                                                                                      |
| 40 C.F.R. 262 Subpart F | 401 KAR 32:050, Section 10                                                                     |
| 40 C.F.R. 262 Subpart G | 401 KAR 32:060                                                                                 |
| 40 C.F.R. 262 Subpart H | 401 KAR 32:065                                                                                 |
| 40 C.F.R. Part 263      | 401 KAR Chapter 33                                                                             |
| 40 C.F.R. 263 Subpart A | 401 KAR 33:010                                                                                 |
| 40 C.F.R. 263 Subpart B | 401 KAR 33:020                                                                                 |
| 40 C.F.R. 263 Subpart C | 401 KAR 33:030                                                                                 |
| 40 C.F.R. Part 264      | 401 KAR Chapter 34                                                                             |
| 40 C.F.R. 264 Subpart A | 401 KAR 34:010                                                                                 |
| 40 C.F.R. 264 Subpart B | 401 KAR 34:020                                                                                 |
| 40 C.F.R. 264 Subpart C | 401 KAR 34:030                                                                                 |
| 40 C.F.R. 264 Subpart D | 401 KAR 34:040                                                                                 |
| 40 C.F.R. 264 Subpart E | 401 KAR 34:050                                                                                 |
| 40 C.F.R. 264 Subpart F | 401 KAR 34:060                                                                                 |
| 40 C.F.R. 264 Subpart G | 401 KAR 34:070                                                                                 |
| 40 C.F.R. 264 Subpart H | 401 KAR 34:080, 401 KAR 34:090, 401 KAR 34:100, 401 KAR 34:110, 401 KAR 34:120, 401 KAR 34:130 |
| 40 C.F.R. 264 Subpart I | 401 KAR 34:180                                                                                 |
| 40 C.F.R. 264 Subpart J | 401 KAR 34:190                                                                                 |
| 40 C.F.R. 264 Subpart K | 401 KAR 34:200                                                                                 |
| 40 C.F.R. 264 Subpart L | 401 KAR 34:210                                                                                 |
| 40 C.F.R. 264 Subpart M | 401 KAR 34:220                                                                                 |
| 40 C.F.R. 264           | 401 KAR 34:230                                                                                 |

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| Subpart N      |                                                                                                               |
| 40 C.F.R. 264  | 401 KAR 34:240                                                                                                |
| Subpart O      |                                                                                                               |
| 40 C.F.R. 264  | 401 KAR 34:287                                                                                                |
| Subpart S      |                                                                                                               |
| 40 C.F.R. 264  | 401 KAR 34:285                                                                                                |
| Subpart W      |                                                                                                               |
| 40 C.F.R. 264  | 401 KAR 34:250                                                                                                |
| Subpart X      |                                                                                                               |
| 40 C.F.R. 264  | 401 KAR 34:275                                                                                                |
| Subpart AA     |                                                                                                               |
| 40 C.F.R. 264  | 401 KAR 34:280                                                                                                |
| Subpart BB     |                                                                                                               |
| 40 C.F.R. 264  | 401 KAR 34:281                                                                                                |
| Subpart CC     |                                                                                                               |
| 40 C.F.R. 264  | 401 KAR 34:245                                                                                                |
| Subpart DD     |                                                                                                               |
| 40 C.F.R. 264  | 401 KAR 34:370                                                                                                |
| Subpart EE     |                                                                                                               |
| 40 C.F.R. Part | 401 KAR Chapter 35                                                                                            |
| 265            |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:010                                                                                                |
| Subpart A      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:020                                                                                                |
| Subpart B      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:030                                                                                                |
| Subpart C      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:040                                                                                                |
| Subpart D      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:050                                                                                                |
| Subpart E      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:060                                                                                                |
| Subpart F      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:070                                                                                                |
| Subpart G      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:080, 401<br>KAR 35:090, 401 KAR<br>35:100, 401 KAR<br>35:110, 401 KAR<br>35:120, 401 KAR<br>35:130 |
| Subpart H      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:180                                                                                                |
| Subpart I      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:190                                                                                                |
| Subpart J      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:200                                                                                                |
| Subpart K      |                                                                                                               |
| 40 C.F.R. 265  | 401 KAR 35:210                                                                                                |

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| Subpart L          |                    |
| 40 C.F.R. 265      | 401 KAR 35:220     |
| Subpart M          |                    |
| 40 C.F.R. 265      | 401 KAR 35:230     |
| Subpart N          |                    |
| 40 C.F.R. 265      | 401 KAR 35:240     |
| Subpart O          |                    |
| 40 C.F.R. 265      | 401 KAR 35:250     |
| Subpart P          |                    |
| 40 C.F.R. 265      | 401 KAR 35:260     |
| Subpart Q          |                    |
| 40 C.F.R. 265      | 401 KAR 35:270     |
| Subpart R          |                    |
| 40 C.F.R. 265      | 401 KAR 35:285     |
| Subpart W          |                    |
| 40 C.F.R. 265      | 401 KAR 35:275     |
| Subpart AA         |                    |
| 40 C.F.R. 265      | 401 KAR 35:280     |
| Subpart BB         |                    |
| 40 C.F.R. 265      | 401 KAR 35:281     |
| Subpart CC         |                    |
| 40 C.F.R. 265      | 401 KAR 35:245     |
| Subpart DD         |                    |
| 40 C.F.R. 265      | 401 KAR 35:350     |
| Subpart EE         |                    |
| 40 C.F.R. Part 266 | 401 KAR Chapter 36 |
| 40 C.F.R. 266      | 401 KAR 36:030     |
| Subpart C          |                    |
| 40 C.F.R. 266      | 401 KAR 36:060     |
| Subpart F          |                    |
| 40 C.F.R. 266      | 401 KAR 36:070     |
| Subpart G          |                    |
| 40 C.F.R. 266      | 401 KAR 36:020     |
| Subpart H          |                    |
| 40 C.F.R. 266      | 401 KAR 36:080     |
| Subpart M          |                    |
| 40 C.F.R. 266      | 401 KAR 36:090     |
| Subpart N          |                    |
| 40 C.F.R. Part 268 | 401 KAR Chapter 37 |
| 40 C.F.R. 268      | 401 KAR 37:010     |
| Subpart A          |                    |
| 40 C.F.R. 268      | 401 KAR 37:020     |
| Subpart B          |                    |
| 40 C.F.R. 268      | 401 KAR 37:030     |
| Subpart C          |                    |
| 40 C.F.R. 268      | 401 KAR 37:040     |

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| Subpart D          |                                                                                       |
| 40 C.F.R. 268      | 401 KAR 37:050                                                                        |
| Subpart E          |                                                                                       |
| 40 C.F.R. Part 270 | 401 KAR Chapter 38                                                                    |
| 40 C.F.R. 270      | 401 KAR 38:010                                                                        |
| Subpart A          |                                                                                       |
| 40 C.F.R. 270      | 401 KAR 38:070, 401 KAR 38:080, 401 KAR 38:090, 401 KAR 38:150 through 401 KAR 38:310 |
| Subpart B          |                                                                                       |
| 40 C.F.R. 270      | 401 KAR 38:030                                                                        |
| Subpart C          |                                                                                       |
| 40 C.F.R. 270      | 401 KAR 38:040, Sections 1 through 4, 7                                               |
| Subpart D          |                                                                                       |
| 40 C.F.R. 270      | 401 KAR 38:040, Sections 5 and 6                                                      |
| Subpart E          |                                                                                       |
| 40 C.F.R. 270      | 401 KAR 38:060                                                                        |
| Subpart F          |                                                                                       |
| 40 C.F.R. 270      | 401 KAR 38:020                                                                        |
| Subpart G          |                                                                                       |
| 40 C.F.R. 270      | 401 KAR 38:320                                                                        |
| Subpart H          |                                                                                       |
| 40 C.F.R. 270      | 401 KAR 38:330                                                                        |
| Subpart I          |                                                                                       |
| 40 C.F.R. Part 124 | 401 KAR 38:050                                                                        |
| 40 C.F.R. Part 273 | 401 KAR Chapter 43                                                                    |
| 40 C.F.R. 273      | 401 KAR 43:010                                                                        |
| Subpart A          |                                                                                       |
| 40 C.F.R. 273      | 401 KAR 43:020                                                                        |
| Subpart B          |                                                                                       |
| 40 C.F.R. 273      | 401 KAR 43:030                                                                        |
| Subpart C          |                                                                                       |
| 40 C.F.R. 273      | 401 KAR 43:040                                                                        |
| Subpart D          |                                                                                       |
| 40 C.F.R. 273      | 401 KAR 43:050                                                                        |
| Subpart E          |                                                                                       |
| 40 C.F.R. 273      | 401 KAR 43:060                                                                        |
| Subpart F          |                                                                                       |
| 40 C.F.R. 273      | 401 KAR 43:070                                                                        |
| Subpart G          |                                                                                       |
| 40 C.F.R. Part 279 | 401 KAR Chapter 44                                                                    |
| 40 C.F.R. 279      | 401 KAR 44:005                                                                        |
| Subpart A          |                                                                                       |

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| 40 C.F.R. 279<br>Subpart B | 401 KAR 44:010 |
| 40 C.F.R. 279<br>Subpart C | 401 KAR 44:020 |
| 40 C.F.R. 279<br>Subpart D | 401 KAR 44:030 |
| 40 C.F.R. 279<br>Subpart E | 401 KAR 44:040 |
| 40 C.F.R. 279<br>Subpart F | 401 KAR 44:050 |
| 40 C.F.R. 279<br>Subpart G | 401 KAR 44:060 |
| 40 C.F.R. 279<br>Subpart H | 401 KAR 44:070 |
| 40 C.F.R. 279<br>Subpart I | 401 KAR 44:080 |

(2) The requirements of the following federal regulations, which are referenced in 401 KAR Chapter 30, shall include the modifications, exceptions, and additions that are specific to the Commonwealth of Kentucky set forth in the following state administrative regulations referenced in the table below.

| Federal Regulation | State Regulation                                                                                                                                                                                   |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 40 C.F.R. 260.10   | 401 KAR 30:005, 401 KAR 31:005, 401 KAR 32:005, 401 KAR 33:005, 401 KAR 34:005, 401 KAR 35:005, 401 KAR 36:005, 401 KAR 37:005, 401 KAR 38:005, 401 KAR 43:005, 401 KAR 44:005, and 401 KAR 30:020 |
| 40 C.F.R. 260.22   | 401 KAR 30:035, Section 3(2) and (3)                                                                                                                                                               |
| 40 C.F.R. 264.1082 | 401 KAR 34:281, Section 2                                                                                                                                                                          |
| 40 C.F.R. 266.205  | 401 KAR 36:080, Section 6                                                                                                                                                                          |
| 40 C.F.R. 270.61   | 401 KAR 38:060, Section 2                                                                                                                                                                          |

(3) The following federal regulations, which are cited by the federal regulations referenced in this 401 KAR Chapter 30, shall be replaced with the state administrative regulations as identified in the table below.

| Federal Regulation    | State Regulation |
|-----------------------|------------------|
| 40 C.F.R. Part 60 Ap- | 401 KAR 59:020   |

|                                          |                                          |
|------------------------------------------|------------------------------------------|
| pendix A                                 |                                          |
| 40 C.F.R.<br>Part 257                    | 401 KAR Chapter 47                       |
| 40 C.F.R.<br>Part 258                    | 401 KAR Chapter 48                       |
| 40 C.F.R.<br>260.41                      | 401 KAR 30:035, Section<br>10            |
| 40 C.F.R.<br>264.140                     | 401 KAR 34:080, Section 2                |
| 40 C.F.R.<br>264.141                     | 401 KAR 34:080, Section 1                |
| 40 C.F.R.<br>264.142                     | 401 KAR 34:090, Section 1                |
| 40 C.F.R.<br>264.143                     | 401 KAR 34:090, Sections<br>2 through 12 |
| 40 C.F.R.<br>264.144                     | 401 KAR 34:100, Section 1                |
| 40 C.F.R.<br>264.145                     | 401 KAR 34:100, Sections<br>2 through 12 |
| 40 C.F.R.<br>264.146                     | 401 KAR 34:110                           |
| 40 C.F.R.<br>264.147                     | 401 KAR 34:120                           |
| 40 C.F.R.<br>264.148                     | 401 KAR 34:130                           |
| 40 C.F.R.<br>265.140                     | 401 KAR 35:080, Section 2                |
| 40 C.F.R.<br>265.141                     | 401 KAR 35:080, Section 1                |
| 40 C.F.R.<br>265.142                     | 401 KAR 35:090, Section 1                |
| 40 C.F.R.<br>265.143                     | 401 KAR 35:090, Sections<br>2 through 11 |
| 40 C.F.R.<br>265.144                     | 401 KAR 35:100, Section 1                |
| 40 C.F.R.<br>265.145                     | 401 KAR 35:100, Sections<br>2 through 11 |
| 40 C.F.R.<br>265.146                     | 401 KAR 35:110                           |
| 40 C.F.R.<br>265.147                     | 401 KAR 35:120                           |
| 40 C.F.R.<br>265.148                     | 401 KAR 35:130                           |
| 40 C.F.R. 266<br>Appendix I<br>Table I-D | 401 KAR 36:025, Section<br>1(2)(a)       |
| 40 C.F.R. 266<br>Appendix I              | 401 KAR 36:025, Section<br>1(2)(b)       |

|                       |                           |
|-----------------------|---------------------------|
| Table I-E             |                           |
| 40 C.F.R.<br>270.51   | 401 KAR 38:040, Section 6 |
| 40 C.F.R.<br>Part 280 | 401 KAR Chapter 42        |

(23 Ky.R. 1052; eff. 3-12-1997; 33 Ky.R. 2369; 3652; eff. 6-13-2007.)